

Battle Creek City Planning Commission

Staff report for June 23, 2010 meeting

To: Planning Commissioners

From: Christine M. Hilton, AICP, Planning Supervisor
Planning and Community Development Department

Date: June 16, 2010

Subject: Petition A-03-10, Amendment to Ch. 1286 "Accessory Buildings and Uses in Residential Districts"

Attached is the proposed ordinance revision to Chapter 1286 "Accessory Buildings and Uses in Residential Districts". The amendment is a complete revision from the existing ordinance though not all of the changes are regulatory in nature.

EXISTING REGULATIONS

An accessory building is defined in Chapter 1230.06(1) of the zoning code as a "subordinate building located on the same lot as the main building, the use of which is naturally and normally incidental to that of the dominant use of the main building or land". Please note that an accessory building is a wholly separate building from the main residential structure and would include detached garages, sheds, pool sheds, and pole barns. Any portion of the main residential structure that is used for parking/storage of vehicles or other personal items (i.e. an attached garage) is considered part of that main structure and is regulated as such – it is *not* considered an accessory structure.

Chapter 1286 of the Zoning Ordinance, "Accessory Buildings and Uses in Residential Districts", attached, regulates accessory buildings in the following manner:

- Accessory buildings cannot exceed 1,000 s.f. in size or occupy more than 50% of the rear yard; they also cannot exceed the overall building coverage requirements for the specific zoning district, per Chapter 1280.
- The maximum height limit is 14' as measured at the midpoint of the eaves and roof peak.
- An accessory building must be setback 60' from the front property line (that which is directly adjacent to a public right-of-way), and 3' from the rear and side property line.

HISTORY / BACKGROUND

The request to review the ordinance regulating accessory buildings was recommended by the Zoning Board of Appeals (ZBA) based upon the number of accessory building size variance requests they have received. There have been approximately ten requests in the past five years from property owners

seeking to build accessory buildings larger than the 1,000 s.f. allowed by ordinance. Half of these variance requests were denied because they did not meet the criteria established by statute and/or local ordinance. Evaluating the past ZBA size variance applications show that they all have occurred in the southwest portion of the City on or near Agricultural zoned properties that are typically larger properties. The concern of the ZBA appeared to be the appropriateness of large accessory buildings in residential neighborhoods, and particularly those allowed on smaller City parcels.

DISCUSSION OF THE ISSUE

Based on the request from the ZBA, the regulations of the existing ordinance as well as possible amendments have been discussed at length by the Planning Commission in the last six months, and from records in the Planning office it appears that this has been an ongoing issue since at least 2006.

To initiate discussion with the Planning Commission, in February 2010 staff surveyed communities that are comparable by size and location to determine the extent of other regulations. This survey is attached to this report, and has been updated to include a summary of the proposed ordinance amendment A-03-10. The results of the survey were presented to the Planning Commission at their February 24, 2010 meeting. While the community ordinance survey seemed to indicate that the current ordinance contained provisions similar to other communities, they agreed to continue exploring possible amendments although there were differing opinions as to the nature of any proposed changes.

In an attempt to gain consensus on the many different components of the ordinance, an online survey was prepared and each Planning Commissioner was encouraged to participate. As eight of the nine commissioners responded, the survey results contain a good cross section of opinions, and guided both staff and the Commission with future discussions.

Subsequent to the survey, a workshop was held at the March 24, 2010 Planning Commission meeting to further refine the various issues. Each issue was discussed and a consensus reached by the Commission. The discussion echoed that of the online survey results, which was extremely helpful as it provided guidance to staff as to the direction a new ordinance should take. The minutes from this meeting are attached to this report.

Using the information discussed in the prior months, staff drafted a revised ordinance which was submitted to the Commission at their May 26, 2010 meeting for discussion purposes. Although there remain a few differing opinions, the proposed ordinance was prepared based upon the apparent consensus of the Planning Commission during previous discussions, survey results, and the workshop, and as such, it is being submitting to the Planning Commission for a public hearing, discussion, and a recommendation to the City Commission.

PROPOSED AMENDMENT A-03-10

The existing and proposed ordinances are included with this report, and the community ordinance survey, also included, contains a summary of each. Though only some of the changes are regulatory in nature, a complete revision was necessary to ensure that references in this chapter are consistent with regulations and definitions in other chapters, and that it is easy to read, understand, and administer. For example, an accessory building is a "subordinate building located on the same lot as the main

building”. The name “accessory”, as well as the definition, infers that it cannot exist prior to the main building because then it wouldn’t be “accessory” or “subordinate” to anything. However, even though this was addressed in the existing ordinance, this is specifically stated in the proposed ordinance.

The following items are those regulatory items that have been discussed and are included in the ordinance:

Size

There has been a fair amount of discussion regarding the allowable size of accessory buildings. The current ordinance restricts the size of accessory buildings to 1,000 s.f., 50% of the rear yard, and an overall percentage of lot coverage based on zoning district. Because the initial concern seemed to be the large size of accessory buildings specifically on smaller parcels of land, the online survey attempted to gain consensus on what type of building should be allowed on certain lot sizes.

The following are the typical parcel sizes, and accessory building sizes used in the survey for illustration purposes:

| Lot Size / Neighborhood Example |
|---|
| 5,000 s.f. Post-Franklin |
| 7,500 s.f. Northside |
| 10,000 s.f. Morningside |
| 15,000 s.f. CherryWood / Jacaranda |
| 30,000 Minges Hills |
| 43,560 s.f. (1 acre) and above: Stonegate / Rural Southwest |

| Typical Accessory Building and Sizes |
|---|
| Standard size shed 10’ x 12’ = 120 s.f. |
| One Car Garage 12’ x 24’ = 288 s.f. |
| Two Car Garage 24’ x 24’ = 576 s.f. |
| Three Car Garage 36’ x 24’ = 864 s.f. |
| Four Car Garage 48’ x 24’ = 1, 152 s.f. |

The online survey results, pg. 1, indicates that the Planning Commission believes that the size of the parcel should determine the allowable size of an accessory building, and the intent should be to reduce the allowable size for smaller parcels and increase the allowable size for larger parcels.

The survey results show that the majority of Commissioners felt that even the smallest allowable parcel in the City, 5,000 s.f., should be allowed at least a one car garage as well as a shed. The size of both of these buildings is approximately 10% of the lot area. This 10% figure also allows for suitable accessory building sizes on progressively larger parcels as determined by the survey results.

Using this proposed 10% standard, the following chart illustrates examples of the types/sizes of accessory buildings that would be allowed on the typical lot sizes found throughout the City, which is consistent with the survey results:

| Lot Size / Neighborhood | % Max | Allowable S.F for Accessory Bldgs | Examples of Allowable Accessory Buildings *: |
|---|----------|--------------------------------------|--|
| 5,000 s.f. Post-Franklin | 10% | 500 s.f. | One car garage / one shed (288 s.f. + 120 s.f. = 408 s.f.) |
| 7,500 s.f. Northside | 10% | 750 s.f. | Two car garage / one shed (576 s.f. + 120 s.f. = 696 s.f.) |
| 10,000 s.f. Morningside | 10% | 1,000 s.f. | Three car garage / one shed (864 s.f. + 120 s.f. = 984 s.f.) |
| 15,000 s.f. CherryWood/ Jacaranda | 10% | 1,500 s.f. | Four car garage / one large shed or two small sheds (1075 s.f. + 400 s.f. = 1475 s.f.) |
| 30,000 Minges Hills | 10% | 1,500 s.f. | Four car garage / one large shed or two small sheds (1075 s.f. + 400 s.f. = 1475 s.f.) |
| 43,560 s.f. (1acre) and above Stonegate, Southwest | 10% | 1, 500 s.f. | Two car garage / two large sheds OR Three car garage / one large shed or two small sheds OR Four car garage / one large shed or two small sheds |

Previous discussions introduced using a smaller percentage amount of 1% or 2% to base the allowable size of accessory buildings with a minimum square footage allowed of 500 s.f. I believe this percentage was derived using variance requests that have come through the Zoning Board of Appeals, the majority of which greatly exceeded one acre in size. However, the 1% standards would restrict all properties less than 50,000 s.f. (1.15 acre) from having an accessory building greater than 500 s.f. (one car detached garage plus one shed). Increasing the standard to 2% standard would only minimally lighten this restriction, and most properties under an acre would still be limited to 500 s.f. There are a total of 19,141 residential parcels in the City, and 18,117 of those are under an acre in size; all those (plus those between 1 acre and 50,000 s.f.) would be subject to the 500 s.f. minimum by using a low percentage standard.

Please keep in mind that the 10% lot size standard is for the total of all accessory buildings on a parcel, including those mentioned above – sheds, gazebos, detached garages, and the proposed ordinance establishes a maximum size of any one accessory building at 1,500 s.f. Additionally Ch. 1280 establishes an overall parcel coverage percentage ranging of either 25% or 30% depending on zoning district; this maximum coverage restriction includes all development of a property including the size of the main structure as well as the accessory building.

Height

The current ordinance limits the height of an accessory building at 14', which is measured at the midpoint between the eaves and peak. Typically, municipalities are facing a number of variance requests for taller accessory buildings that will accommodate larger recreational vehicles such as boats and mobile homes. The current height limit of 14' has not seemed to be an issue in the City as it still accommodates a taller doorway and roofline to allow the storage of these items. The Planning Commission did indicate that the accessory building should not exceed the height of the main residential structure, and this has been added to the ordinance.

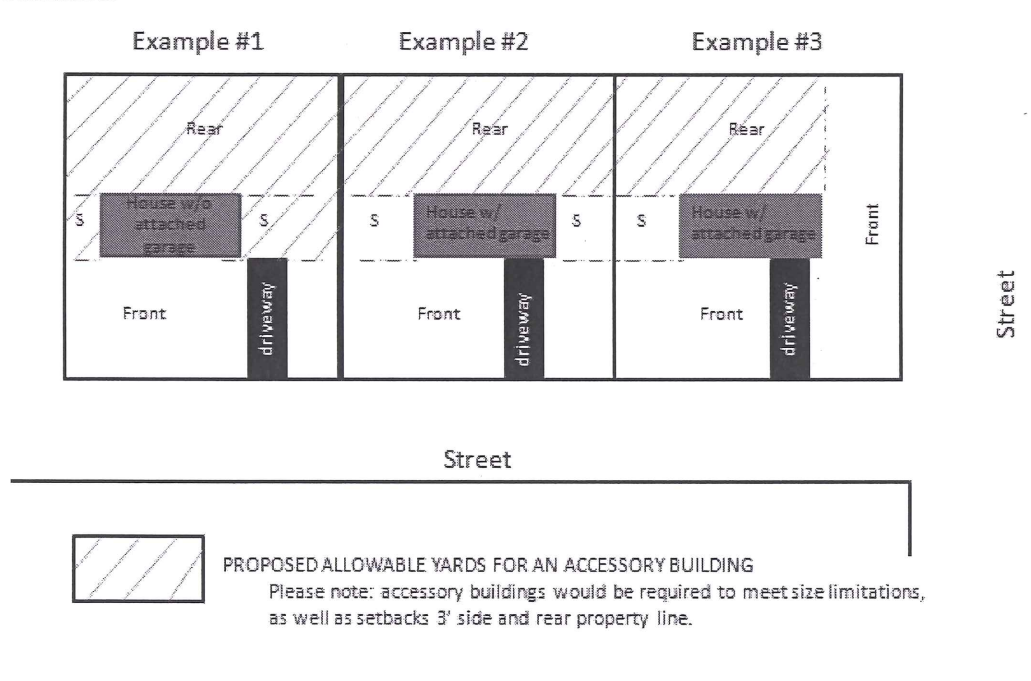
Setbacks / Location

The current ordinance essentially allows accessory buildings in all yards, provided it is 60' from the front property line. There are some instances, especially on larger properties, that this would allow an accessory structure in front of the main residential structure. In the survey and at the workshop, the Planning Commission agreed that these structures should not be allowed in front of the main residential structure and should definitely be allowed in the rear yard. However, the discussion on whether or not accessory buildings should be allowed in the side yard warranted some thought. In general, the Commission was opposed to accessory buildings in the side yard, but they were concerned that properties not having attached garages wouldn't be allowed an accessory building in close proximity to their house.

In addressing this concern, the proposed ordinance reflects the following:

- For those principal structures (i.e. the house) with an attached garage, accessory buildings would be allowed in the rear yard only.
- For those principal structures (i.e. the house) without an attached garage, accessory buildings would be allowed in the side or rear yard.

This language provides the opportunity for properties without attached garages to build an accessory building in closer proximity to their house. The following diagram illustrates the location based upon the above standard.



Utilities

The current ordinance is silent on utility connections to accessory buildings. There has been discussion that perhaps utilities should not be allowed to an accessory building to prevent the structure from being used as an unlawful residential property. However, this is a concern with any existing building and is addressed under other sections of the zoning ordinance. Additionally, as accessory buildings are not used solely for storage, the Planning Commission recognized that there will be times those utilities are

necessary for its functionality (i.e. a pool shed, garage, and/or a workshop, all require electrical with water being a highly desired amenity). Therefore, the proposed ordinance specifies that utilities are permitted, but adds that an additional residential dwelling unit would not be allowed.

The following items are those regulatory items that were discussed and are not included in the ordinance:

Number of Accessory Buildings

Our current ordinance does not limit the number of accessory buildings allowed on a parcel as long as each does not exceed 1,000 s.f. in size, occupy more than 50% of the rear yard, overall building coverage requirements, and meet setbacks. As the size of a parcel will dictate the allowable square footage for accessory buildings, and because these structures could include a detached garage, shed, pool shed, playhouse, etc. or any combination thereof, the Planning Commission did not feel that a limit on the number of accessory buildings would be appropriate.

Aesthetic Regulations

There has been some consideration as to creating aesthetic regulations for accessory buildings. Some municipalities have regulations concerning the appearance and style of accessory buildings, but they are customarily addressed through private subdivision covenants that are not enforced through the City. The consensus of the Commission felt that placing restrictions on property owners that dictate the method of construction (i.e. frame versus pole construction), appearance (i.e. roof pitch), or color of an accessory building is overly restrictive to a property owner. Additionally, it's difficult to draft a "one size fits all" regulation that could fit all circumstances without it being very subjective.

PUBLIC HEARING REQUIREMENTS

As required by the Zoning Enabling Act of 2006, as amended, a public hearing is required for an ordinance amendment, and a notice listing the date, time, and subject of a public hearing is required to be advertised no less than fifteen days prior to the hearing. As such, the public hearing notice was published in the Battle Creek Enquirer on Thursday, June 3, 2010. To date, no public comments have been received in the Planning Department.

RECOMMENDED ACTION

As the proposed ordinance was drafted based upon the consensus of the Planning Commission as derived from previous discussions, survey results, and the workshop, staff is requesting that the Planning Commission recommend approval of the proposed ordinance A-03-10 to the City Commission.

CHAPTER 1286
Accessory Buildings and Uses in Residential Districts

1286.01 General requirements.

CROSS REFERENCES

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i
 Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581
 Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582
 Regulation of congested areas - see M.C.L.A. Sec. 125.583
 Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a
 Effect of zoning ordinance or zoning decision in presence of demonstrated need for certain land use - see M.C.L.A. Sec. 125.592

1286.01 GENERAL REQUIREMENTS.

Accessory buildings and uses in the R Districts shall conform to the following regulations, except as may be otherwise provided in this Zoning Code.

(a) Uses.

- (1) Accessory uses shall include essential services.
- (2) Accessory uses to a dwelling shall be limited as provided in Section 1230.06(1), but are deemed to include home occupations, swimming pools for the use of resident families and the storage of vehicles, including garages and driveways used solely and exclusively for access to lawfully located vehicle storage areas or garages. Except as may be otherwise provided in this Zoning Code, parking in required front yards is prohibited in R Districts.

(b) Location.

- (1) Accessory buildings which are part of the main building shall conform to all height and yard requirements of the main building. (Ord. 36-84. Passed 12-18-84.)
- (2) Detached accessory buildings shall not be less than sixty feet from the front property line. Detached accessory buildings shall not be closer than three feet from all side and rear lot lines, nor closer than ten feet from any main building. (Ord. 8-95. Passed 4-18-95.)
- (3) Accessory buildings shall not occupy in excess of fifty percent of a rear yard and shall comply with the building coverage requirements of Chapter 1280. (Ord. 8-87. Passed 6-2-87.)
- (4) On a corner lot, no detached accessory building shall project beyond the buildable width limitation for the R District in which it is located.
- (5) Wherever a required rear yard abuts the required side yard of an adjacent lot, accessory buildings shall maintain a distance from the common lot line of not less than the required side yard of the adjacent lot. (Ord. 36-84. Passed 12-18-84.)
- (6) Swimming pools shall not be nearer than six feet from the side or rear lot line or from any house, building or residence. No swimming pool shall be in any front yard. (Ord. 8-95. Passed 4-18-95.)

- (c) Height. Accessory buildings shall not exceed fourteen feet in height. (Ord. 36-84. Passed 12-18-84.)

CHAPTER 1280
Building Coverage Requirements

1280.01 General requirements.

1280.02 Building coverage defined.

CROSS REFERENCES

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

Regulation of location of trades, buildings and uses by local authorities - see
M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative
bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Yard requirements - see P. & Z. Ch. 1278

Lot area and width requirements - see P. & Z. Ch. 1282

Nonconforming dimensions or setbacks - see P. & Z. 1288.06

1280.01 GENERAL REQUIREMENTS.

The maximum building coverage of all structures upon a lot for each district are as follows:

| | <u>District</u> | <u>Maximum Percent of Building Coverage</u> |
|------|-------------------------|---|
| AG | Agricultural | No limitations |
| R-1R | Single-Family Rural | No limitations |
| R-1A | Single-Family | 30 |
| R-1B | Single-Family | <u>30</u> |
| R-1C | Single-Family | 30 |
| R-2 | Two-Family | 25 |
| R-3A | Multiple Dwelling | 25 |
| R-3B | Multiple Dwelling | 25 |
| MDMF | Medium Density Multiple | 30 |
| HDMF | High Density Multiple | 30 |
| O-1 | Office | 40 |
| C-1 | Neighborhood Commercial | 40 |
| C-2 | General Business | No limitations |
| C-3 | Intensive Business | No limitations |
| C-4 | Central Business | No limitations |
| C-5 | Planned Shopping | No limitations |
| C-6 | Highway Interchange | No limitations |
| I-1 | Light Industrial | No limitations |
| I-2 | Heavy Industrial | No limitations |

(Ord. 36-84. Passed 12-18-84; Ord. 30-90. Passed 11-6-90.)

ACCESSORY BUILDINGS IN RESIDENTIAL DISTRICTS

Comparison of existing and proposed ordinances;
Survey of regulations in comparable communities.



| | Size Limit | Setbacks | Height | # Allowed | Allow Utilities ? | Siding/Roof Color Reg ? |
|------------------------------|--|---|--|-----------|-------------------|-------------------------|
| Battle Creek Existing | 1,000 s.f.; 50% rear yard; % lot coverage, based on zoning district. | 60' front 3' side yard & rear yard setback | 14 ft. | No limit | Yes | No |
| Battle Creek Proposed | 10% of lot area not to exceed 1,500 s.f.. or 50% of rear yard. | Allowed in rear yard only if main structure has attached garage; Allowed in side/rear yard if no attached garage. 3' side yard & rear yard setback | 14 ft. or height of main bldg, whichever is less | No limit | Yes | No |
| Portage | 20% rear yard with max s.f. of the ground floor area of main bldg If over a 2 acre lot, area of acc. bldg can be greater than ground floor area of main bldg w/ PC app. | Rear yard only; 3' side yard & 3' rear yard | 14 ft. | | | |
| Kalamazoo | 20% lot area not to exceed main bldg footprint | Rear yard only; 3' side yard & 3' rear yard | 16 ft. | No limit | | |
| Jackson | 30% rear yard | 5' side yard & 5' rear yard | 15 ft. | 2 | | |

ACCESSORY BUILDINGS IN RESIDENTIAL DISTRICTS

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| | Size Limit | Setbacks | Height | # Allowed | Allow Utilities ? | Siding/Roof Color Reg ? |
|------------------------------|--|---|--|-----------|-------------------|-------------------------|
| Battle Creek Existing | 1,000 s.f.; 50% rear yard; % lot coverage, based on zoning district. | 60' front 3' side yard & rear yard setback | 14 ft. | No limit | Yes | No |
| Battle Creek Proposed | 10% of lot area not to exceed 1,500 s.f.. or 50% of rear yard. | Allowed in rear yard only if main structure has attached garage; Allowed in side/rear yard if no attached garage. 3' side yard & rear yard setback | 14 ft. or height of main bldg, whichever is less | No limit | Yes | No |
| Portage | 20% rear yard with max s.f. of the ground floor area of main bldg If over a 2 acre lot, area of acc. bldg can be greater than ground floor area of main bldg w/ PC app. | Rear yard only; 3' side yard & 3' rear yard | 14 ft. | | | |
| Kalamazoo | 20% lot area not to exceed main bldg footprint | Rear yard only; 3' side yard & 3' rear yard | 16 ft. | No limit | | |
| Jackson | 30% rear yard | 5' side yard & 5' rear yard | 15 ft. | 2 | | |



Accessory Building Survey

| | | |
|---|-------------------------|-----------------------|
| 1. The current zoning ordinance limits the size of accessory buildings to 1,000 s.f. and not to exceed 50% of the rear yard. Do you think the size regulations for accessory buildings should be amended? | | |
| | Response Percent | Response Count |
| Yes  | 37.5% | 3 |
| No  | 62.5% | 5 |
| Comments: | | 3 |
| answered question | | 8 |
| skipped question | | 0 |




2. Which of the following types of accessory buildings should be allowed on the various parcel sizes throughout the City? Check all that apply.

| | Standard size shed (10x12 = 120 s.f.) | One car garage (12x24 = 288) | Two car garage (24x24 = 576) | Three car garage (36x24 = 864) | Other | Response Count |
|---|--|---------------------------------|---------------------------------|-----------------------------------|-----------|----------------|
| 5,000 s.f. (50' x 100') or below | 42.9% (3) | 57.1% (4) | 14.3% (1) | 14.3% (1) | 14.3% (1) | 7 |
| 7,500 s.f. (60' x 125') | 42.9% (3) | 14.3% (1) | 57.1% (4) | 14.3% (1) | 14.3% (1) | 7 |
| 10,000 s.f. (75' x 133') | 28.6% (2) | 28.6% (2) | 57.1% (4) | 14.3% (1) | 14.3% (1) | 7 |
| 15,000 s.f. (100' x 150') | 28.6% (2) | 28.6% (2) | 28.6% (2) | 57.1% (4) | 14.3% (1) | 7 |
| 30,000 s.f. (120' x 250') | 14.3% (1) | 42.9% (3) | 14.3% (1) | 57.1% (4) | 28.6% (2) | 7 |
| 43,560 s.f. (one acre 150' x 290') or above | 14.3% (1) | 14.3% (1) | 28.6% (2) | 57.1% (4) | 42.9% (3) | 7 |
| None of the above | 0.0% (0) | 0.0% (0) | 0.0% (0) | 50.0% (1) | 50.0% (1) | 2 |
| Other (please specify) | | | | | | 4 |
| answered question | | | | | | 7 |
| skipped question | | | | | | 1 |




3. Should accessory buildings be limited to not more than the ground floor area of the main residential structure on the parcel?

| | | Response Percent | Response Count |
|-------------------|---|---------------------|-------------------|
| Yes |  | 37.5% | 3 |
| No |  | 62.5% | 5 |
| answered question | | | 8 |
| skipped question | | | 0 |



4. The current ordinance allows accessory buildings in all yards, provided it is 60' from the front property line, 3' from rear and side property lines, and 10' from the main structure. Which of the following yards should accessory buildings be allowed in (check all that apply):

| | | Response Percent | Response Count |
|---|--|---------------------|-------------------|
| Front (between front building line of house and street; corner lot has two front yards) |  | 12.5% | 1 |
| Side (between front building line and rear building line) |  | 25.0% | 2 |
| Rear (between the rear building line of the main structure and rear property line) |  | 87.5% | 7 |
| answered question | | | 8 |
| skipped question | | | 0 |




5. The current ordinance limits the height of an accessory building at 14', which is measured at the midpoint between the eaves and peak. Should the height regulation of an accessory building be:

| | Response Percent | Response Count |
|---|---------------------|-------------------|
| Lower?  | 12.5% | 1 |
| Higher?  | 12.5% | 1 |
| Not changed?  | 75.0% | 6 |
| Comments: | | 2 |
| <i>answered question</i> | | 8 |
| <i>skipped question</i> | | 0 |



6. In addition to the height standard, should the height further be limited to the height of the main structure?

| | Response Percent | Response Count |
|---|---------------------|-------------------|
| Yes  | 37.5% | 3 |
| No  | 62.5% | 5 |
| <i>answered question</i> | | 8 |
| <i>skipped question</i> | | 0 |




7. The current ordinance does not limit the number of accessory buildings allowed on a parcel. Keeping in mind that an accessory building includes detached garages, pool sheds, play houses, and ANY outbuilding not attached to the main structure, how many accessory buildings should be allowed on a parcel?

| | Response Percent | Response Count |
|---|---------------------|-------------------|
| One  | 12.5% | 1 |
| Two  | 12.5% | 1 |
| Three | 0.0% | 0 |
| Four or more | 0.0% | 0 |
| No limit providing all other regulations concerning size, setbacks, and parcel coverage are met.  | 75.0% | 6 |
| <i>answered question</i> | | 8 |
| <i>skipped question</i> | | 0 |



8. If a parcel were to be allowed more than one accessory building, should EACH be allowed to meet the size restriction (for example, each would be allowed 1,000 s.f. under the current ordinance), or should the combined square footage of all accessory buildings not exceed the size restriction?

| | Response Percent | Response Count |
|--|---------------------|-------------------|
| Each building can meet the size limitation  | 37.5% | 3 |
| The total of all buildings cannot exceed the size limitation  | 62.5% | 5 |
| <i>answered question</i> | | 8 |
| <i>skipped question</i> | | 0 |

9. In your opinion, what of the following utilities should accessory buildings be allowed to have (check all that apply):

| | Response Percent | Response Count |
|--|---------------------|-------------------|
| Water  | 75.0% | 6 |
| Electric/Gas  | 100.0% | 8 |
| Sanitary Sewer  | 62.5% | 5 |
| None of the above | 0.0% | 0 |
| <i>answered question</i> | | 8 |
| <i>skipped question</i> | | 0 |

10. Which of the following items should be regulated (check all that apply):

| | Response Percent | Response Count |
|---|---------------------|-------------------|
| Color of accessory buildings | 0.0% | 0 |
| Appearance (i.e. roof pitch, location of windows/doors) | 0.0% | 0 |
| Building material (siding to match house,  | 12.5% | 1 |
| None of the above  | 87.5% | 7 |
| <i>answered question</i> | | 8 |
| <i>skipped question</i> | | 0 |

REPLIES TO QUESTIONS #1 and #2

- 1. The current zoning ordinance limits the size of accessory buildings to 1,000 s.f. and not to exceed 50% of the rear yard. Do you think the size regulations for accessory buildings should be amended?**

- | | |
|--|------------------------------|
| 1. Any lot in the city should be able to put a one care garage in the rear yard (if there is no attached garage) regardless of the 50% coverage requirement. | Mon, Mar 8, 2010 5:05 PM |
| 2. However, under unique circumstances (larger lots, agricultural settings) larger or additional buildings should be consider like in the past. | Fri, Mar 5, 2010 3:16 PM |
| 3. If we are pressed to amend the ordinance I'd support what is below. | Thu, Mar 4, 2010 11:35 PM |

- 2. Which of the following types of accessory buildings should be allowed on the various parcel sizes throughout the City? Check all that apply.**

- | | |
|---|------------------------------|
| 1. lots up to 30,000 sqft should be allowed 1,000 sqft, over 30,000 sf lots should be allowed a 4-5 car garage | Thu, Mar 18, 2010 3:16 PM |
| 2. I believe all types may be considered, provided they are substantially less than the 50% rule, which I find much too large on a city parcel. | Thu, Mar 11, 2010 3:57 PM |
| 3. Should use a percentage of the lot - this would permit more flexibility for larger lots | Mon, Mar 8, 2010 5:05 PM |
| 4. limit structure size to home's footprint or some percentage of the buildable space. | Thu, Mar 4, 2010 11:35 PM |

**PLANNING COMMISSION
WORKSHOP MEETING MINUTES**

March 24, 2010

4:00 P.M.

CALL TO ORDER: Workshop meeting was called to order at 4:00 p.m.

ATTENDANCE:

Members Present: Susan Baldwin, Steve Barker, Jan Frantz, John Godfrey, Preston Hicks, Bill Morris, Chip Spranger, and John Stetler

Members Excused: Ed Scheinfeldt

Staff Present: Jill Steele, Deputy City Attorney; Christine Hilton, Planning Supervisor; Glenn Perian, Senior Planner; and Leona Parrish, Planning Admin. Assistant.

PUBLIC COMMENTS:

Mr. Jim Kerner, 56 Dunning Avenue, Battle Creek, MI 49037-2046, was present to speak. Stated he has a large lot with a split driveway, with a small accessory building that he would like to tear down and build a larger 30'x 40' accessory building with 10 ft. side walls to store and old "61 Chevy", and also have space for a wood working shop. Noted in order to build the larger building he would need a variance as it is larger than the 1,000 sq. ft. that is currently allowed. Mr. Kerner said he is retired and wants to be able to enjoy himself with having a larger garage for his hobbies only. Said because he also has a shared driveway, he would like to see the guidelines of what is allowed. Noted he would like to build it as he get the money; one-year at a time until finished as he would be doing the work himself and that it would cost him approximately \$17,000 dollars to build with \$20,000 for the concrete foundation and new driveway. He said he wanted to build it with the same roof pitch has his home (10/12 pitch) so it matched in appearance. Mr. Kerner asked the Planning Commission to take his request into consideration.

PLANNING COMMISSION DISCUSSION ON ACCESSORY BUILDINGS:

Ms. Christine Hilton, Planning Supervisor stated prior to this workshop she had emailed a PDF document of the survey results to the Planning Commissioners of the Accessory Building Survey that they had taken. Stated she would like to base their discussion today on the results and would like to start the discussion with item #4 on the survey because questions 1-3 are wild-card questions regarding size. Stated she would like to briefly discuss how the current ordinance is regulated; review the questions and answers on the survey results and have a brief discussion to see if the Planning Commission feels it would need an ordinance amendment.

Commissioner Hicks stated following from the agenda items.

A.) Location of a building, and what the board wanted to approve:

Ms. Hilton stated that question #4 deals with the location of accessory buildings and that the current ordinance does not limit the location other than it needing to be 60 ft. from the right-of-way. Noted that in most locations it is addressed except where some locations where lots are larger and potentially could be placed in the front-yard. Results of the survey show that 87.5 % feel it should be in rear-yard only which would be between the rear building line of the main structure and rear property line and would require an ordinance amendment. Noted that staff is in support of this ordinance amendment.

Commissioner Stetler asked how it pertained to detached garages and if it was considered an accessory building; which would mean an accessory garage could not be put in-line with end of the home and would need to be in the rear yard. Ms. Hilton stated that was correct.

Commissioner Stetler stated he did not feel they understood this when it was discussed, as he would think that a garage which have garage doors and is to be used to house cars could be in line with the side of the residential structure. That an accessory building is for some other use then for cars and that a garage could be in-line with the home.

Commissioner Frantz asked if this had been a past practice; that garages are considered to be accessory buildings and would not be a new change. Commissioner Stetler stated he had not, until it was defined as such.

Ms. Christine Hilton stated any building that is not attached to the main residential structure is an accessory building. Commissioner Stetler asked what makes a garage attached. Ms. Hilton stated anything that attaches it to the principle structure is attached.

Ms. Jill Steele read Chapter 1230.06(28) the definition of "garage" (private); *private garage means an accessory building not exceeding 1,000 sq. ft. that houses vehicles or property that are for the private use of the occupants of the lot on which the private garage is located.*

Commissioner Stetler said as long as it could be attached by a breezeway etc., he would not object to them being in the rear yard.

Commissioner Barker stated the statutory construction that determines a garage is an accessory building by definition, so if he has a home and wants to construct a garage (according to the statute now) it would have to be located in the rear of the property. He does not feel that would be necessary and is an undue restriction provided the setbacks, size, etc. are all met with regard to requiring the accessory building i.e. the garage being attached to the main structure. Said they may want to make a distinction between an accessory building and garages as it seems to him that a garage is a different animal than just a general accessory building that they had spoken of in the past.

Commissioner Godfrey stated in the older neighborhoods most of the homes had only detached garages and some have been joined by a breezeway with a shed in the backyard. He had always assumed that the home, breezeway and garage were one-unit and then allow for an accessory building in the back yard. Stated he agrees they need to define a garage separate from an accessory building.

Commissioner Hicks stated he can see someone building an accessory building and later it becoming a garage; so its use can change very easily as their needs change. Stated they could be treading into an area that they cannot control. Noted the space is a space if it fits into the yard, if they have a garage it is an accessory building no matter where they put it by definition.

Ms. Jill Steele stated if it is apart of the plans for the building of the house, it would not be considered an accessory building. Stated a garage is also defined as an accessory building in Chapter 1293.02 (c).

Mr. Glenn Perian said that under "Accessory Buildings & Uses in Residential Districts, Chapter 1296.01" states accessory buildings that are apart of main building shall conform to all height and yard

requirements of the main building. Said he feels there needs to be a distinction between attached garages and detached accessory buildings.

Commissioner Spranger stated what will become of homes that are on a corner lot and the only place to build would be in a side-yard; will they be told they cannot build, as accessory buildings would not be allowed in a side-lot.

Ms. Hilton stated because they live on a corner lot; by definition they have two front-yards, only one interior side-yard and a rear yard.

Commissioner Frantz stated there are many older homes that have garages in their side-yard and if they would want to replace it, they would then have to put it in the rear-yard and seems to be a burden for the property owner with an unanticipated outcome. Ms. Hilton stated they could restrict it from being just in the front-yard and allow them to be only in the side and rear yard if the Planning Commission were to be more comfortable with that option.

Mayor Baldwin stated she would like to see some examples drawn on paper and believe it would help everyone to have a visual of what would be allowed. Mayor provided a drawing showing a new construction of a residential home with an attached garage; her question is would this be allowed.

Commissioner Hicks stated it is noted that attached front, side, and rear to this point is acceptable. He asked the commissioners; how much do they feel they will be able to capture in terms of covering everything and how effective will they be in dealing with most circumstances presented to them. He is leaning towards; they can deal with most of them, but will have outliers and this is what they would be having Special Use Permit conversations about, or are they hoping to capture every scenario that they can possibly come up with today.

Mayor Baldwin asked Ms. Hilton what had been City of Coldwater's past practices regarding accessory buildings. Ms. Hilton stated she believes you can have the ordinance be quite specific and keep in mind there are 20,000 properties in the City of Battle Creek and you will not be able to draft an ordinance that encompasses everything and make sure when you draft an ordinance that you try to avoid any unintended consequences. Stated any property that would vary from the ordinance would come through as a variance to the Zoning Board of Appeals and not be a Special Use Permit and are intended to be quite restrictive based on property conditions, unusual circumstances dealing with the property etc. Ms. Hilton thinks you can get by with a one paragraph ordinance or a five page ordinance; it all depends on what the Planning Commission want to have.

Mayor Baldwin stated the Zoning Board of Appeals asked that they review this ordinance and asked how many properties had there been; said they might be asking that the current ordinance just be reviewed and that there might not be any major changes required.

Commissioner Barker noted at the last Planning Commission meeting the Planning Department had put together a detailed report with a series of recommendations he thought was very reasonable and thought the only issue left from the last meeting was the definition of a garage, as it seems they had not realized a garage was an accessory building. Said in viewing the statue it did not seem there was much needed to be done and was convinced of this as it was stated in the report there had only been ten (10) requests in the past five-years; in the last six-years have had (13) requests, (7) approved and (6) denied showing an

average of (2) per year and granting (1) variance per year. Stated he believes there does not seem to be a major problem and that we currently have a statute that works and any variance requests that might come before them be addressed as needed.

Commissioner Stetler stated the Zoning Board of Appeals have had very few variance requests because they are so liberal in what is allowed; that the ZBA indicated in their request to the Planning Commission that they review Accessory Buildings based on lot size so that larger parcels of land could have larger buildings and smaller parcels have smaller buildings; in addition they did not want a detached garage in the front of a house. Commissioner Stetler stated in response to the Mayor's question; he did not believe that attached garages are considered an accessory building. Ms. Christine Hilton and Ms. Jill Steele stated that was correct.

Commissioner Hicks stated getting back to the agenda; they were discussing location of accessory buildings and also accessory buildings vs. garages. He asked if front attached, side attached and rear attached, detached rear and detached on side were acceptable.

Commissioner Godfrey asked Ms. Steele if we had a definition for a garage. Ms. Steele stated as before that there is a distinction between "garage private" and "garage public"; a garage "private" *Chapter 1230.06(28) means accessory building not exceeding over 1,000 sq. ft..* Mayor Godfrey states it does not say what a garage is or what it is intended to store. Ms. Steele states that in *Chapter 1293.02 (c) "garage means an accessory building or portion of a main building designed or used for the storage of motor vehicles or property mentioned in this chapter owned and used by the occupants of the main building and shall be located on the same lot as the main building and shall be naturally and normally incidental to the dominant use of the premises"*.

Ms. Hilton stated for the sake of this conversation anything attached to the main house, we should assume is the main house and focus on the detached structures that will be incidental to the main house and where they should be located. Staff can then work on the definitions.

Mayor asked what if someone wanted to put a structure along side but not have it attached; would this be permissible. It was stated according to the current ordinance it would be allowed and would need to be 10 ft. from the main structure because of building and fire codes.

Commissioner Stetler stated he believes that an unattached structure should be in the rear-yard only and not have a separate building in the front of the home.

Commissioner Godfrey stated he believes there needs to be a better definition of a garage and then concentrate on accessory buildings other than a garage; and he would be in favor of saying they should be in the rear yard, with the exception of those defined as a garage.

Commissioner Spranger asked if a garage on the side-yard needed to be attached.

Commissioner Frantz stated they are suggesting that a garage could be in the side-yard detached if it is a garage; but any other out-buildings or accessory buildings would have to be in the rear-yard. So the building defined as a garage could be in the side and not the front-yard.

Commissioner Spranger asked if a six-car garage would then be acceptable in the side-yard if the lot supported it with the setbacks. Mayor stated that was a valid question and asked if this what the city would want; where the garage that is parallel to the residence be wider than the home.

Commissioner Godfrey asked what if the home has 800 ft. exposure on the front.

It was noted what the current ordinance allows regarding an accessory building required to be at least 60 ft. from the front property line and at least 10 ft. from any other structure. Explained that if a residential structure is placed to the rear of the lot and then wished to put an accessory building in front of that structure 60 ft. from their front property line, they would be allowed by current ordinance; this is an example what Commissioner Stetler does not want to see, which is an accessory building in the front of a residential home.

Commissioner Godfrey stated there are examples of this in the old Lakeview Avenue, where the majority of the homes sit close to the sidewalk and then others have the home sitting to the rear of their lot with their entire lawn in the front. Stated once they define a garage, he would be in support of all other accessory buildings to be in the back-yard.

Commissioner Barker stated he is in agreement with Commissioner Godfrey and that the distinction seems to be the lack of the definition of a garage vs. accessory building. Stated they do not want to see accessory buildings in front-yards, but no harm in having an unattached garage adjacent to the existing structure, with a statue to define garages from accessory buildings.

Mayor asked how we want to define what a garage is used for and can it be for cars, boats, RV's, workshop etc.

Commissioner Frantz stated if we were to restrict the definition of a garage to be for a use no other than storage of the homeowners vehicles, with an additional square footage for brooms and rakes etc.; it would keep the large accessory building from being considered a garage.

Commissioner Morris noted the lake properties on Country Club Lane, where garages are built in front of the homes and cannot be put next to the homes; is this considered the back-yard where the driveway is located. If this is the case they would need to address those as well as lake-front properties that have two front-yards.

Commissioner Spranger asked what solution are they going to have; he gave an example of a property where the neighbor complained that a car should not be parked in an accessory building on the property. Feels they are trying to make micro changes and that with the current ordinance there had only been (2) variance requests in any single given year.

Commissioner Hicks stated they are discussing universal possibilities and dealing with some scenarios and some they will not be able to deal with, but need to be responsible in dealing with those scenarios that are before them. Stated they now need the definition of a garage and are comfortable with having accessory buildings in the rear of the homes.

Planning Commission all agree that "accessory buildings" should be located in the rear of the property only.

B.) Ms. Hilton read the report from the survey results summary regarding Height:

Mayor Baldwin asked if a "Class A" motor home would fit into a 12 ft. door opening which is permissible in a maximum height of 14 ft. structure. Ms. Hilton stated yes.

Commissioner Morris asked for the clarification of the 14 ft. height limitation as being the mid-point of the roof peak. Ms. Hilton stated that was correct.

Commissioner Godfrey stated he would support, as there may be variances submitted based upon the size of the property, structure etc. and that as an overall guidance for the citizens and not get too regulatory, that the existing ordinance would be acceptable to him.

Commissioner Barker and Morris stated they concur with Commissioner Godfrey.

Planning Commissioners all agreed that the current ordinance regarding the limit of height of an accessory building is acceptable as remaining the same height of 14 ft., which is measured at the midpoint between the eaves and peak, and that in addition should be limited to the height of the main structure.

C.) Limiting the number of accessory buildings allowed:

Ms. Hilton stated when discussing accessory buildings it also includes detach garages, pole barns, pool sheds, play houses, and small accessory buildings. Noted the current ordinance does not limit the number of 1,000 sq. ft. buildings allowed on a parcel as long as the setbacks are met and 50% rear-yard coverage requirement for that particular zoning district. The question is should the city limit the number of buildings allowed on a parcel and if allowed more than one accessory building should the overall amount allowed be limited to the 1,000 sq. ft. maximum per parcel. The results of the survey showed that 75% feel there should have no limit on a parcel, also 62.5 % stated that the total # of buildings should be limited to the 1,000 sq. ft. size restriction; noted staff is in support of this also.

Mayor Baldwin stated she disagrees; for example she has a 4 acre parcel with several out-buildings, one each for the sprinklers, dogs, porch structure, etc. and if she wanted to build a structure to house things like ATV's, campers, RV's, etc. it would be restricted to the 1,000 sq. ft.. Stated she thinks that property owners with larger lots should be provided options for allowing them to have more than a 1,000 sq. ft. accessory building. Ms. Christine Hilton stated that was a valid question and the Planning Department would review based on having a percentage and vary per lot size.

Commissioner Stetler stated he would prefer to see one larger accessory building than seeing two or more 1,000 sq. ft. accessory buildings in a row.

Commissioner Frantz stated referencing the document of what the other communities that limit the accessory buildings; noted she is also in favor of not exceeding the ground floor level of square footage of the home, and to limit it to allowing only two buildings not exceeding the 1,000 sq. ft. with an option of seeking a variance.

Commissioner Morris was in agreement with Mayor Baldwin and think they need to take into consideration the size of the lot, put a limit of three and meet the criteria of percentage of lot coverage not to exceed 50% of the lot.

Commissioner Hicks asked by raise of hands how many want to limit the number of accessory buildings allowed; three raised their hands. Ms. Hilton asked regarding accessory buildings if it also included detached garages or just an accessory building. (It was noted detached garages are not included.)

Commissioner Barker stated he feels there is no need to limit the number of accessory buildings as it would be determined by the square footage of lot size and setbacks; therefore see no need to have a specific number of buildings.

Commissioner Frantz asked if someone put their garden shed next to their house that looks attached, is it considered to be an accessory building. Ms. Hilton stated it is not allowed, that building and zoning code states it needs to be 10 ft. from their house; if it is less than 200 sq. ft. it does not require a building permit.

Planning Commissioners all agreed there was no need to limit the number of accessory buildings as the limit would be determined by the lot size.

D.) Limit the types of utilities allowed for an accessory building:

Ms. Hilton stated there was some conversation whether utilities should or should not be allowed to accessory structures with the intent of possibly prohibiting illegal businesses from accessory structures. Stated home occupations are allowed on residential properties and illegal businesses are not allowed and they try to regulate those under typical zoning code. One of the questions on the survey was dedicated to should utilities be allowed: 75% of responses indicate water should be allowed; 100% indicate electric and/or gas should be allowed; and 62.5% indicate sanitary sewer should be allowed.

It was noted that permits that are applied and/or approved for the utilities would regulate what is allowed and would need to be in compliance with the building code.

Planning Commissioners all agreed there should not be any restriction regarding the types of utilities permitted for accessory buildings.

E.) Need for Design Regulations:

Ms. Hilton stated there was suggestions there should maybe have some design regulations inserted into the possible ordinance amendment regarding the color of accessory buildings, appearance regulations, and building material regulations. It was noted on the survey response that 87.5% feel none of these should be regulated; which staff also supports as they seem to be overly restrictive.

Commissioner Frantz mentioned the Form Based Zoning as having restrictions for certain areas, and asked how it might relate and if it dealt with look vs. usage and thought we should keep it in mind. Stated for example the appearance of the streetscape would be of more emphasis as opposed to the zoning district use.

Ms. Hilton stated Form Based Codes are based more with form and function of an area over use; that use is a secondary factor in how things are governed and that form and function are primary. Stated Battle Creek currently does not have any and have looked into it in the past and the Transitional Business District was one where they possibly could have a Form Based Codes in that area.

Mayor stated she believed it allowed mixed use instead of zoning as long as it looked nice and that a neighborhood covenant can be more restrictive. Ms. Hilton stated, yes that was correct.

Commissioner Stetler stated if it were a Planned Unit Development (PUD), Form Based Codes would not apply.

Ms. Steele stated if it is something that you generally want to allow, it should be dealt with in the ordinance and not require a variance; because a variance should be rarely granted.

Planning Commissioners all agreed there should not be any design restrictions regarding accessory buildings.

F.) Limit the size of accessory buildings:

Ms. Hilton stated the survey addressed the size on questions # 1, 2, & 3 and the current ordinance addresses size by limiting it to 1,000 sq. ft., not to exceed 50% of the rear yard of the parcel of which it would be placed and noted each zoning district have different lot coverage requirements. Stated they have determined that a detached garage would be separate from an accessory structure, and now it will be challenging to deal with size.

Ms. Hilton read the comments on the survey report regarding limiting the size of accessory buildings; #1) stated 62.5% on the survey said no we do not want to limit the size; #2) noted the different sizes of structures on various size parcels; and Question #3) asked if accessory buildings be limited to not more than the ground floor area of the main residential structure on the parcel. Noted comments on these responses were added to the last page of the survey.

Commissioner Godfrey stated he contacted Ms. Hilton as he thought this section to be confusing and noted that it would be helpful to make a better decision if they had examples of size of lots per neighborhood in the city and what size accessory buildings should be allowed for those neighborhoods.

Commissioner Stetler thought this was a complex question and suggested it be broken-out and looked at it in pieces to get some concurrence and not try to do it all at once. Example: what do we want the size to vary with (house); (yard); (total square footage); yes or no.

Commissioner Hicks stated he believes that the size of the house and lot may both be included in the same equation and have them both influence what is allowed in terms of an accessory building. Commissioner Hicks asked Ms. Hilton how the size allowed was determined in other areas. Ms. Hilton stated it was across the board of how those were factored in.

Commissioner Frantz asked if we could address them one at a time to see how they stack up and eliminate those they do not want to be in the equation.

Commissioner Stetler stated they could start with the lot size, as you can have a small house on a 10 acre parcel on Stone Jug Rd. they would want a large pole building to accommodate the land. He does not believe it would be good criteria, because it is more a function of the size of land as to how they appear and how badly it is needed.

Commissioner Frantz asked if the question was to be; are they going to consider the size of the house or a percentage to be one of their criteria? Commissioner Hicks stated he would say no, based on information, the size of the house is not relevant.

Mayor Baldwin wanted to talk about a couple of questions regarding the size of the lot. Stated regarding the quality of life in smaller lot areas like in the Post Addition, they need to at least allow for a one-car garage and take into consideration their lot size. Ms. Hilton stated there are a few property owners that have built 900 sq. ft. accessory buildings in their rear yard and they did fit, just for comparison purposes.

Commissioner Barker stated he agrees with the rule that states accessory buildings cannot occupy more than 50% of the rear yard and 25-30% (based on zoning) of total coverage of the entire lot of all buildings as being acceptable regardless of the lot size with the number of accessory buildings as not being a factor.

Commissioner Frantz stated the 50% rule of rear-yard coverage and 25-30% rule for total lot coverage seems to work for everyone, but the 1,000 sq. ft. of accessory building size is different and would like to decide that separately.

Commissioner Stetler stated in response to the Mayor's question; there are a lot of people who have 33 x 132 ft. lots and think they should look at some type of minimum for them. If they have a joint garage that is 12 x 20 ft., where are the bicycles going to be stored. Mr. Perian stated they should still be able to put a shed in the rear yard.

Commissioner Hicks asked regarding the 1,000 sq. ft. limit of accessory building allowed and if the commission would like to see it increased.

Commissioner Spranger stated he would like to see it increased for those having 2-acres or more.

Commissioner Godfrey stated there are a lot of parcels to the south and southwest of town that the limit of 1,000 sq. ft. is ridiculous.

Commissioner Frantz stated the 1,000 sq. ft. minimum is too restrictive and is in favor of the percentage of the lot (both the entire and rear lot). She does not support the restriction of 1,000 sq. ft.

Commissioner Godfrey stated he assumed we would get a staff report and then review it at the next Planning Commission meeting.

Mayor Baldwin stated in order to make a better decision she strongly recommend they be given diagrams showing examples of lots to view and compare.

ADJOURNMENT: Workshop meeting was adjourned at 5:35 p.m.

Respectfully Submitted,

Christine M. Hilton, AICP
Executive Secretary
Planning Department

June 23, 2010

CHAPTER 1286 - Accessory Buildings and Uses in Residential Districts

- 1286.01 Application
- 1286.02 General Requirements.
- 1286.03 Size.
- 1286.04 Height.
- 1286.05 Location.

CROSS REFERENCES

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.3201

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.3201

Regulation of congested areas - see M.C.L.A. Sec. 125.3203

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.3208

Effect of zoning ordinance or zoning decision in presence of demonstrated need for certain land use - see M.C.L.A. Sec. 125.3207

Rental housing - see B. & H. Ch. 1463

1286.01 APPLICATION.

- (a) Accessory buildings include, but are not limited to: pool houses; storage buildings; patio covers; garages; carports; workshops; greenhouses; gazebos; tree-houses; play structures; and permanent or temporary tent structures including those intended to shelter vehicles.
- (b) Any non-habitable portion of the main residential building that is used for an accessory use including parking and/or storage of vehicles or personal property and is structurally attached to the main residential building shall be considered a part of the main residential building and shall conform to all regulations of this Zoning Code applicable to main residential buildings. "Attached" for the purposes of this regulation is defined as being integrated visually, structurally, and architecturally with the main residential building, containing a common roof, and permitting access between the habitable and non-habitable areas either internally or under the common roof. If the common roof serves as

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an unenclosed connection between the two areas, they shall be considered attached if the length of the connection does not exceed the length of the non-habitable portion by more than fifty percent (50%) or twenty feet (20'), whichever is less.

- (c) Accessory uses of a dwelling shall be limited as provided in Section 1230.06(1), but are deemed to include uses that are performed for personal enjoyment, amusement or recreation including hobby workshops, gardens, swimming pools for the use by the occupants, essential services, driveways, and the parking and/or storage of vehicles and other personal property.
- (d) Accessory buildings or structures used in accordance with a permitted agricultural use are exempt from the provisions of this chapter.
- (e) Landscape features including plantings, light poles, flag poles, planters, and statuary are exempt from the provisions of this chapter if they do not require a building permit and providing they do not restrict visibility from intersections or driveways.

1286.02 GENERAL REQUIREMENTS.

- (a) Construction of accessory buildings for one and two family dwellings in the A and R Districts shall conform to the following regulations except as may otherwise be provided in this Zoning Code. Accessory buildings for other permitted uses in the A and R districts and for permitted uses in other districts may be constructed in accordance with regulations for main buildings in those districts.
- (b) Any accessory building may not be constructed on a lot or parcel of land until and unless a main building is first constructed on the lot or parcel.
- (c) Accessory buildings are allowed to be serviced by utilities including water, gas, electrical, and sanitary sewer, but in no case shall an accessory building contain kitchen facilities or be used for dwelling purposes.

1286.03 SIZE.

- (a) All accessory buildings shall not exceed ten percent (10%) of the lot area, excluding areas devoted to public road rights-of-way or private access easements.
- (b) Accessory buildings shall not occupy in excess of fifty percent of a rear yard and shall comply with the building coverage requirements of Chapter 1280.
- (c) The maximum size of the floor area of any one accessory building shall not exceed 1,500 s.f. The floor area shall be measured using the exterior wall dimensions.

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1286.04 HEIGHT.

- (a) Accessory buildings shall not exceed fourteen feet (14') in height or the height of the main residential building, whichever is less.

1286.05 LOCATION.

- (a) Accessory buildings shall not be erected in the front yard of a lot or parcel, unless otherwise provided herein. In accordance with Section 1278.03 of this zoning code, front yards are located adjacent to all street frontages for parcels having frontage on two or more streets. Parcels having frontage on a lake, brook, stream, river or other watercourse shall be allowed an accessory building in the waterfront front yard provided it observes front and side yard setbacks required for the main residential building.
 - (b) Accessory buildings may be erected in the side or rear yard, as regulated herein:
 - (1) Where the main residential building contains an attached area for the storage of vehicles, personal property, or other accessory uses, the lot or parcel shall be permitted to have accessory buildings in the rear yard, as defined by Ch. 1230.06(57)(c).
 - (2) Where the main residential building does not contain an attached area for the storage of vehicles, personal property, or other accessory uses, the lot or parcel shall be permitted to have accessory buildings in the side and/or rear yard, as defined by Section 1230.06(57)(b) and (c).
 - (c) Accessory buildings shall not be closer than three feet from all side and rear lot lines, including the roof overhang.
 - (d) Accessory buildings may not be closer than ten (10) feet to the main building or another accessory building unless otherwise permitted under building code provisions.
 - (e) Wherever a required rear yard abuts the required side yard of an adjacent lot, accessory buildings shall maintain a distance from the common lot line of not less than the required side yard of the adjacent lot.
 - (f) Swimming pools shall not be nearer than six feet from the side or rear lot line or from any house, building or residence. No swimming pool shall be in any front yard.
 - (g) In no instance shall an accessory building be located within a dedicated easement right-of-way.
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